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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/026,418	12/19/2001	Petrus Paulus Waanders	ACD 2847 US	2525

7590 03/15/2004

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EXAMINER
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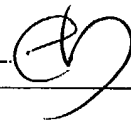
TESKIN, FRED M

ART UNIT	PAPER NUMBER
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1713

DATE MAILED: 03/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/026,418	Applicant(s) WAANDERS ET AL. 	
	Examiner TESKIN	Art Unit 1713	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 November 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 13-25 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 13-22 is/are allowed.
- 6) ☒ Claim(s) 24-25 is/are rejected.
- 7) ☒ Claim(s) 23 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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The amendment of November 26, 2002 has been entered in full and is deemed to obviate the claim rejections under 35 USC 112/2d paragraph set out in the previous Office action.

Claim 23 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. It is unclear whether the peroxide species recited in claim 23 falls within the scope of the Markush group set out in parent claim 22. Indeed, none of the Markush members set out in claim 22 is a "bis(3,3,5-trimethylhexanoyl) " peroxide as recited in claim 23. Clarification and/or appropriate correction of claim 23 is required.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 24 and 25 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over US 4131728 to Priddy or US 4499244 to Honsberg.

Priddy shows a polymerization process wherein styrene monomer is formed into polymer by initiating the polymerization in the presence of peroxides within the recitations of claim 24 and maleic anhydride or diethyl fumurate as a non-homopolymerizing diluent (see col. 3, line 50 to col. 4, line 25). According to the present specification (page 8, lines 20 et seq.), unsaturated carboxylic acid anhydrides and unsaturated esters qualify as preferred examples of applicants' reactive phlegmatisers. Therefore, the maleic anhydride and diethyl fumurate diluents of Priddy are considered to qualify as the "one or more phlegmatisers" of the peroxide formulation recited in claim 13 and incorporated through dependency in claim 24.

Honsberg shows the curing of a chlorinated polyethylene in the presence of a peroxide within the recitations of claim 25 and an aliphatic polyhydroxy alcohol (see the working examples in columns 4-8). As alcohols are named herein as a preferred species of phlegmatiser, the presumption is that the polyhydroxy alcohols of Honsberg qualify as a phlegmatiser of the peroxide formulation recited in claim 13 and incorporated through dependency in claim 25.

While neither reference discloses a transportation method in accordance with claim 13, examiner finds that the claimed method of transportation of the peroxide formulation is not patentably limiting with respect to the polymerization process or cross-linking process being claimed in claims 24 and 25, respectively. Indeed, the

manipulative step of the transportation method is not a positive step of either of the claimed processes; and there is no objective evidence of record establishing that the transporting method of claim 13 serves to distinguish the peroxide formulation in any unobvious respect over the peroxide formulations of the prior art which were not subject to such transportation method. Accordingly, the claimed polymerization process and cross-linking process appear to be identical with, or patentably indistinguishable from the prior art polymerization process (Priddy) and curing process (Honsberg).

The previously indicated allowability of claims 13-22 is maintained.

In view of the new grounds of rejection, this action is made non-final.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner F. M. Teskin whose telephone number is (571) 272-1116. The examiner can normally be reached on Monday through Thursday from 7:00 AM - 4:30 PM, and can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wu, can be reached on (571) 272-1114. The appropriate fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.


Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**FRED TESKIN**  
**PRIMARY EXAMINER**  
1713

FMTeskin/03-05-04